

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6701

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOSEPH MICHAEL DIXON,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles Jr., District Judge. (CR-99-112-S)

Submitted: August 12, 2004

Decided: August 18, 2004

Before NIEMEYER, WILLIAMS, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joseph Michael Dixon, Appellant Pro Se. Andrew George Warrens Norman, Assistant United States Attorney, Lynne Ann Battaglia, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Joseph Michael Dixon seeks to appeal the district court's order dismissing his motion to dismiss the indictment. The district court properly construed Dixon's pleading as a motion filed under 28 U.S.C. § 2255 (2000), and dismissed it as successive, noting that Dixon had not obtained authorization from this court to file such a motion. An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 338 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Dixon has not made the requisite showing. Accordingly, we deny Dixon's motion for a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED